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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/746,391	12/21/2000	Masaharu Ono	P/2007-74	9241

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EXAMINER

WITKOWSKI, STANLEY J

ART UNIT

PAPER NUMBER

2837

DATE MAILED: 12/10/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/746,391

Applicant(s)

Ono et al.

Examiner

Witkowski

Art Unit

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10-9-02.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-13 is/are allowed.
- 6) ☒ Claim(s) 1-4 & 14-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States. Claims 1, 3, 4 and 16 are rejected under 35 U.S.C. 102(b) as being fully met by Liebman.

This patent discloses a musical tone generating implement which is hand-held or gripped. The pressure sensor or switch is mounted on a base member which is encapsulated in a hold member or can that is formed in a round shape for grip by a user. The hold member or can is made of elastic material. Pressure applied to the pull-tabclosure 18 to open it actuates a musical tone generator. Claim 1 is met. Regarding claim 3, the fact that the musical tones or "jingle" is related to the product in the container or can reads an applicant's informer that informs the user of generation of the musical tone signal generator. Regarding claims 4 and 16, sound generating device 20 includes a storage or storage medium of musical tones which are automatically played upon actuation.

Claims 1-4 and 14-17 are rejected under 35 U.S.C. 102(b) as being fully met by Chomette et al.

This patent discloses a musical tone generating implement or ball which is hand-held or gripped. Pressure sensors or switches 3 are mounted on a base member which is encapsulated in a hold member being the ball which is formed in a round shape for grip by a user. The hold member or ball is made of elastic material. Claims 1 and 2 are met. Regarding claim 3, the

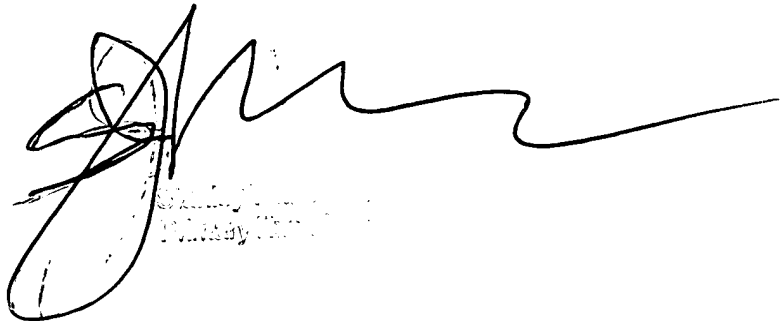
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representation of a country's flag on the ball is an informer that informs the user of generation of the musical tone signals generated by the musical tone signal generator. See column 2, lines 10-14. Regarding claim 14, a speaker is provided. Regarding claims 4 and 15-17, the circuitry in Fig. 9 has a storage or storage medium for musical tone control data and automatic performance is controlled thereby.

Any inquiry concerning this communication should be directed to Stanley J. Witkowski at telephone number (703) 308-3101.

**S.J. Witkowski/mm**

**12/06/02**

A handwritten signature in black ink, appearing to read 'Stanley J. Witkowski', with a long horizontal flourish extending to the right. The signature is written over a faint, rectangular stamp that is mostly illegible but appears to contain the words 'STANLEY J. WITKOWSKI' and 'ATTORNEY AT LAW'.